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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KERRY CLENDINNING, MICHAEL D. MCCARTNEY,  
MATTHEW W. MENDERIN, FRED G. ROBINETTE, and  
DAVID J. WILSON

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Appeal 2010-007343  
Application 09/730,538  
Technology Center 2100

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Before LANCE LEONARD BARRY, JEAN R. HOMERE, and ST. JOHN  
COURTENAY III, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-19, 21, and 26. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

#### INVENTION

The following claim illustrates the invention on appeal:

10. A method of storing product information in a database, the method comprising:

gathering product information from diverse external sources;

loading the gathered product information into the database, the gathered product information including a first attribute-value pair that includes a first attribute and a first value;

for each product in the gathered product information, determining whether the

product is already present in said database, and if so,

translating the first attribute to a second attribute responsive to identifying the first attribute in a list that includes a plurality of attributes that are associated with the second attribute, the second attribute being a canonical representation of the plurality of attributes respectively; and

for each product determined as not being already present in said database, adding a product identifier and related product information to said database, the database to determine and to store relationships between the various product identifiers for each new product represented in newly gathered information and stores information regarding the related product information for that product according to alias lists for product information terminology stored in said database.

#### REJECTION

Claims 1-19, 21, and 26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,950,173 ("Perkowski").

#### DISCUSSION

Based on the Appellants' arguments, we will decide the appeal of claims 1-19, 21, and 26 on the basis of claim 10. *See* 37 C.F.R.

§ 41.37(c)(1)(vii). The issue before us follows: Did the Examiner err in finding that Perkowski teaches "translating the first attribute to a second attribute responsive to identifying the first attribute in a list that includes a plurality of attributes that are associated with the second attribute, the second attribute being a canonical representation of the plurality of attributes respectively[,]" as required by representative claim 10?

The Examiner finds that "in Col. 9, lines 39-48, . . . the Information Field of the IPI [i.e., Internet Product Information] which corresponds to the first attribute is in fact translated into a Product Advertisement Information Field, the Product Specification Information Field which corresponds to the second attribute." (Ans. 6.) The Appellants argue that "[a]s defined in the application 'each column corresponds to an attribute' such that 'each row . . . holds data for a single product and each column holds a single attribute, such as a product name.' Indeed, as confirmed by the quotes from Appellants' patent specification, neither the 'updated URL' nor the 'original URL' may be said to be attributes within the meaning of Appellant's claims." (Appeal Br. 17-18.)

"During prosecution . . . the PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

Here, we agree with the Examiner's finding that the aforementioned Fields of Perkowski constitute attributes because these Fields are columns storing data. We will not read into the claim from the Specification what the

data represent, which amounts to non-functional descriptive material. "[O]ur reviewing court has held that nonfunctional descriptive material cannot lend patentability to an invention that would have otherwise been anticipated by the prior art." *Ex parte Mathias*, 84 USPQ2d 1276, 1279 (BPAI 2005) (informative), *aff'd*, 191 Fed.Appx. 959 (Fed. Cir. 2006) (citing *In re Ngai*, 367 F.3d 1336, 1339 (Fed. Cir. 2004)), *aff'd*, 191 Fed. Appx. 959 (Fed. Cir. 2006)).

Besides the aforementioned finding of fact about the claimed translating, the Examiner makes the following additional "specific fact finding," *Ex parte Belinne*, No. 2009-004693, 2009 WL 2477843, at \*4 (BPAI Aug. 10, 2009) (informative). "The identification of an attribute is the action of the data collector is identifying data used to populate the data tables of FIGS. 4A1, 4A2 and 4B." (Ans. 7.) "The second attribute is a canonical representation of the other attributes in the sense that it is an alternative representation associated with the other attributes and is made in accordance with a canon (a relation, such as a relational table)." (*Id.* at 5.)

For their part, the Appellants do not address these findings. Instead, they make the following allegations.

[T]he portion of Perkowski relied upon in the Final Office Action still fails to describe: 1) the construed attribute-value pair as being translated to a second attribute, or 2) a translating that is responsive to an identifying the first attribute in a list, or 3) a list that includes a plurality of attributes that are associated with the second attribute, or 4) the second attribute being a canonical representation of the plurality of attributes respectively.

(App. Br. 18.) These allegations "do not . . . explain why the Examiner's explicit fact finding is in error." *Belinne*, at \*4.

Therefore, we conclude that the Examiner did not err in finding that Perkowski teaches "translating the first attribute to a second attribute responsive to identifying the first attribute in a list that includes a plurality of attributes that are associated with the second attribute, the second attribute being a canonical representation of the plurality of attributes respectively[.]" as required by representative claim 10.

#### DECISION

We affirm the rejection of claim 10 and of claims 1-9, 11-19, 21, and 26, which fall therewith.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv).

#### AFFIRMED

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